

Food Information Note 5: Homemade Fruit Jellies, Jams, Preserves, and Butters and Baked Goods Sold at Farmer's Markets

November 7, 2001

In response to inquiries from local health departments and farmer's market organizers and vendors, the following information is provided to supplement the Farmer's Market Interpretative Memorandum 80-6 dated August 27, 1992. This Office, using legal authority set forth in the Code of Maryland Regulations (COMAR) 10.15.03.03H, considers some hot-filled canned fruit jellies, jams, preserves, and butters and non-potentially hazardous baked goods made in private home kitchens as being from an "approved source" when the homemade foods are:

1. Limited to the foods specified in this Note, which are non-potentially hazardous foods and have inherent safety factors;
2. Wholesome and properly packaged and labeled; and
3. Offered or sold solely at a farmer's market.

For the purpose of this Note, a farmer's market is a place where:

1. One or more persons offer or sell to the public food products supplied directly from one or more farm operations; and
2. The major activity involves the offering or selling of agricultural food products to the public.

A farmer's market does not include:

1. A food service facility operated by a person licensed in accordance with COMAR 10.15.03 in which the major activity does not involve offering or selling agricultural products to the public; and
2. A place:
 - a. Where the food offered or sold does not include food supplied directly from farms; and
 - b. From which food is wholesaled or commercially distributed.

The homemade foods accepted as being from an approved source at a farmer's market are the high acid fruit jelly, jams, preserves, and butters and non-potentially hazardous baked goods described below.

Fruit jelly and fruit jams (and preserves)

Fruit jelly is the jelled mixture of one or more filtered or strained fruit juices and sweeteners, pectin, and other optional ingredients. Fruit jam and preserves contain fruit and are viscous or semi-solid. Preserves typically contain small whole fruit or uniform pieces of fruit, while jams use crushed or chopped fruits. In this Note, jams and preserves are considered the same food. For standardized fruit jellies and jams, 21 Code of Federal Regulations (CFR) §§150.140 and 150.160 require that the mixtures contain a minimum of: 1) 45 or 47 parts by weight of fruit juice or fruit respectively to each 55 parts by weight of saccharin ingredient; and 2) soluble solids of 65%. Although jellies and jams typically contain a high sugar content, the water activity

(Aw) of jellies and jams may exceed .85 (threshold value for food pathogens and potentially hazardous foods). Only fruit and berries with sufficient natural acidity to guarantee an equilibrated pH of the jelly or jam of less than 4.6 may be used in homemade jams and as a source of the fruit juice ingredient in jellies. The fruits and berries that likely have sufficient natural acidity for safety and that are also included in the CFR as sources for standardized fruit jelly and jam include: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry and red currants. Fruit jelly and jam made from fruit and berries other than the above may not be manufactured without a license issued in accordance with COMAR 10.15.01 “Canning and Acidified Food Manufacturing” unless specific written approval is given by this Office. Rhubarb, tomato, and pepper jellies and jams are not allowed for in-home manufacturing.

Fruit butters

Fruit butter is the smooth and semi-solid mixture of screened fruit and sweeteners, fruit juice, pectin and other optional ingredients. For standardized fruit butters, 21 CFR §150.110 requires that the mixture contain as a minimum: 1) 5% of fruit by weight; 2) fruit juice that is ½ the fruit weight; and 3) soluble solids of 43%. Fruit butters contain less sugar than jams and jellies and are likely to have a Aw of greater than .85. Fruit butters that are homemade and offered or sold at a farmer’s market must use fruits that have sufficient natural acidity to result in a food with an equilibrated pH of less than 4.6. The fruits that likely have sufficient natural acidity for safety and that are also included in the CFR as sources for standardized fruit butter are apple, apricot, grape, peach, plum, prune, and quince. Fruit butter made from other than the above may not be manufactured without a license issued in accordance with COMAR 10.15.01 unless specific written approval is given by this Office. Pumpkin butter, banana butter, and pear butter are not approved for in-home manufacturing. Some pear serovars may have a pH of 4.6 or slightly higher and most pumpkin and banana butters are either “low-acid foods” or “acidified foods” that, in accordance with COMAR 10.15.01, require the manufacturer to: 1) Receive a license to operate a food processing plant; 2) Attend specialized training; and 3) File a scheduled process with the U.S. Food and Drug Administration.

Baked goods

Baked goods are breads, cakes, and pastries that are cooked with dry heat. The only homemade baked goods that may be offered or sold to the public at a farmer’s market are those that are non-potentially hazardous. Many baked goods are non-potentially hazardous chiefly because of low water activity. Fruit pies made from the high acid fruits listed above for fruit jams, jellies, and butters are acceptable. Potentially hazardous baked goods offered or sold to the public such as most focaccia breads, pumpkin pies, sweet potato pies, cheesecakes, and pastries with potentially hazardous fillings or toppings must be from a licensed food processing plant.

Except for the specified fruit jams, jellies, and butters, and non-potentially hazardous baked goods made for sale or offering directly to consumers at farmer’s markets, all processed foods sold or offered to the public must be manufactured in a commercial food processing plant by a person licensed by the Department of Health and Mental Hygiene to operate the plant.